

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAVIER SALAZAR, JR., *et al.*,

Defendants.

Case No. 1:23-cv-01282-CDB

ORDER GRANTING THIRD *EX PARTE*  
APPLICATION TO EXTEND TIME FOR  
SERVICE OF PROCESS

(Doc. 11)

**Deadline: February 9, 2024**

On August 28, 2023, Plaintiff United States of America initiated this action with its filing of a complaint against Defendants Javier Salazar, Jr., Javier Salazar, Sr., and Ricardo Covarrubias. (Doc. 1). That same date, the Clerk of Court issued summonses and the Court entered an Order setting a mandatory scheduling conference. (Docs. 2, 3). The Order directed Plaintiff to “diligently pursue service of summons and complaint” and “promptly file proofs of service.” The Order further advised Plaintiff that failure to diligently prosecute this action “may result in the imposition of sanctions, including the dismissal of unserved defendants.”

With respect to service, where a plaintiff fails to serve a defendant within 90 days after the complaint is filed, Rule 4(m), Fed. R. Civ. P. requires the Court to dismiss the action or order that service be made within a specified time upon a showing by the plaintiff of “good cause” for the delay. *See In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001).

On October 30, 2023, the Court found good cause to grant Plaintiff’s first *ex parte*

1 application to continue the scheduling conference and extend the time for service of the  
2 summons and complaint. (Docs. 5, 6). On November 22, 2023, the Court found good cause to  
3 grant Plaintiff's second *ex parte* application to continue the scheduling conference and extend  
4 the time for service of the summons and complaint. (Docs. 7, 8). Thereafter, on December 15,  
5 2023, Plaintiff filed proofs of service of the summons and complaint as to Defendants Javier  
6 Salazar Sr. and Javier Salazar Jr. (Docs. 9-10).

7 Pending before the Court is Plaintiff's third *ex parte* application to extend the time for  
8 service of the summons and complaint as to Defendant Covarrubias. (Doc. 11). The application  
9 is supported by the declaration of counsel for Plaintiff who attests that Plaintiff mailed to  
10 Defendant Covarrubias a waiver of service, attempted to contact him by phone, and attempted to  
11 effectuate process of service five times. *Id.* at 3. Counsel for Plaintiff represents Plaintiff will  
12 continue to attempt service using an alternative address and will pursue alternative methods  
13 service upon Defendants if unsuccessful. *Id.* Counsel for Plaintiff requests that the Court extend  
14 the time for service until February 9, 2024. *Id.*

15 In light of Plaintiff's representations and good cause appearing, IT IS HEREBY  
16 ORDERED:

- 17 1. Pursuant to Rule 4(m), Fed. R. Civ. P., no later than February 9, 2024, Plaintiff  
18 SHALL FILE either summonses returned executed as to Defendant Covarrubias  
19 or a status report setting forth good cause for any requested service extension; and
- 20 2. The February 22, 2024 scheduling conference is reset to March 19, 2024, at 9:30  
21 AM. before Magistrate Judge Christopher D. Baker. The parties are reminded of  
22 their obligation to file a joint scheduling report at least one week prior to the  
23 conference. (Doc. 3).

24 IT IS SO ORDERED.

25 Dated: January 4, 2024

26   
UNITED STATES MAGISTRATE JUDGE